

Author: Migden Analyst: Deborah Barrett Bill Number: SB 1752  
 Related Bills: See Legislative History Telephone: 845-4301 Introduced Date: February 24, 2006  
 Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** State Agencies Shall Furnish To The Controller Address or Other Identification Or Location Information To Be Used To Locate Owners Of Unclaimed Property

## SUMMARY

This bill would require state and local agencies to provide confidential information to the Controller to locate owners of unclaimed property.

This bill includes provisions related to management of the State Unclaimed Property Fund, which do not impact this department's programs or operations and are not discussed in this analysis.

## PURPOSE OF THE BILL

It appears that the purpose of this bill is to facilitate locating owners of unclaimed property escheated to the state and provide a more efficient method of handling the funds received under this program.

## EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2007, and operative as of that date.

## POSITION

Pending.

## ANALYSIS

### FEDERAL/STATE LAW

Current federal law provides that returns and tax information are confidential and may not be disclosed to federal or state agencies or employees except for authorized purposes. Agencies allowed access to federal return information include certain federal and state agencies, such as the Franchise Tax Board (FTB). A federal return is defined as any tax return, information return, declaration of estimated tax, or claim for refund under the Internal Revenue Code. Any FTB employee or member responsible for the improper disclosure of federal tax information is subject to criminal prosecution. Improper disclosure of federal tax information is a felony.

Board Position:

\_\_\_\_\_ S      \_\_\_\_\_ NA      \_\_\_\_\_ NP  
 \_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
 \_\_\_\_\_ N      \_\_\_\_\_ OUA        X   PENDING

Department Director

Date

S. Stanislaus

5/9/06

Current state law prohibits the disclosure of any taxpayer information except as specifically authorized by statute. California law permits FTB to release individual tax return information to specific state agencies for specific purposes, including the State Controller's Office to locate owners of unclaimed property, subject to limitations of federal law. Any FTB employee or member responsible for the unauthorized disclosure of state or federal tax information is subject to criminal prosecution. Improper disclosure of state tax information is a misdemeanor and improper disclosure of federal tax information is a felony.

## **PROGRAM BACKGROUND**

Subject to limitations imposed by federal law, FTB is currently authorized to provide address or location information from its records to the Controller for use in locating owners of unclaimed property. Annually, the Controller will send a file listing individuals or businesses for which the state is holding escheated property. FTB will match that file against its records to locate the most current address, edit out any IRS sourced data, and return the file for use in the Controller's Unclaimed Property Program. The Controller is prohibited from using the information sent for any purpose other than that stated in the agreement.

## **THIS BILL**

This bill would require state and local agencies to furnish to the Controller, from its records, the address or any other identification or location information that could reasonably be used to locate an owner of unclaimed property. This bill also provides that if the information is confidential under any other law or regulation, the information will be furnished to the Controller provided that neither the Controller nor any officer, agent, or employee for the Controller may use or disclose the information, except as may be necessary to locate the owner of unclaimed property. This bill provides that if a fee is customarily charged for the requested information, the Controller is required to pay the fee.

## **IMPLEMENTATION CONSIDERATIONS**

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

Violation of the federal disclosure laws is a felony. FTB is also prohibited by agreement from disclosing any IRS sourced taxpayer information, unless express consent has been received from the IRS. Failure to adhere to the express terms of the agreement could result in the IRS terminating its information sharing agreement with the department, resulting in significant loss of state income tax revenue that is generated from use of IRS data. As requested by the author's staff, proposed amendments have been suggested to resolve this concern.

## **OTHER STATES' INFORMATION**

The states reviewed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws. While every state had Unclaimed Property Programs, it was not apparent whether those states used tax information to locate owners of unclaimed property. These states must

also adhere to the IRS prohibition of using federal tax data for non-tax purposes, to the extent these states participate in the IRS data sharing program.

### **FISCAL IMPACT**

Implementing this bill would not significantly impact the department's programs or operations.

### **ECONOMIC IMPACT**

If the suggested amendments are made to the bill, there would be no impact on the state's income tax revenues. If the bill remains in its original form and access to Federal Tax Information (FTI) is stopped, the revenue loss could be significant.

### **LEGISLATIVE STAFF CONTACT**

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO SB 1752  
As Introduced February 24, 2006

AMENDMENT 1

On page 3, line 6, after "of" insert:

state

AMENDMENT 2

On page 3, line 12, after "any" insert:

state

AMENDMENT 3

On page 3, line 13, before "regulation", insert:

state

AMENDMENT 4

ON page 3, line 20, insert:

(4) This subdivision may not be interpreted to compel a disclosure of information that would violate federal law or regulation.